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Name: Prema Maria Mertz  
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**THIS TRANSMISSION IS FROM:**

Name: Shelby J. Walker  
Date: September 28, 2005  
Page: 1 of 6 Operator: Tom O.

Attorney Docket No. 97-72D1

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PATENT APPLICATION  
File No: 97-72D1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Darrell C. Conklin, Betty A. Haldeman, Angelika Grossmann  
Serial No. : 10/748,484  
Group Art Unit : 1646  
Examiner : Mertz, Prema Maria  
Filed : December 29, 2003  
For : MAMMALIAN CYTOKINE-LIKE POLYPEPTIDE-10  
Date Submitted : September 28, 2005

AMENDMENT FEE TRANSMITTAL

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Amendment for the above-mentioned application.  
The fee required to be filed with the accompanying amendment has been calculated as shown below:


## CLAIMS AS AMENDED

<u>Claim Type</u>	<u>Total Claims After Amendment</u>	<u>Highest No. Covered by Previous Payments</u>	<u>Extra</u>	<u>Extra Rate</u>	<u>Fees</u>
<u>Paid</u>					
Total	2	-20	0 x	<input checked="" type="checkbox"/> \$25 <input type="checkbox"/> \$50	\$0
Independent	1	-3	0 x	<input checked="" type="checkbox"/> \$100 <input type="checkbox"/> \$200	\$0

Total: \$0

Please charge any required fee to ZymoGenetics, Inc., Deposit Account No.  
26-0290. A duplicate of this sheet is enclosed.

Respectfully submitted,

  
Shelby J. Walker  
Registration No. 45,192

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## PATENT APPLICATION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (571) 273-8300 on the date entered below.

September 28, 2005  
Date

Tom Orrison  
Tom Orrison

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Darrell C. Conklin, Betty A. Haldeman, Angelika Grossmann  
Serial No. : 10/748,484  
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF RESTRICTION REQUIREMENT**

Sir:

The Restriction Requirement mailed August 31, 2005 has been received and reviewed.

The Office Action sets forth a restriction requirement under 35 USC §121. Applicants were requested to elect 1 of 24 designated groups as briefly noted below:

Groups 1-24: Claims 1-2 are drawn to an antibody to a polypeptide of amino acid sequence as set forth in SEQ ID NO: 2, 4, 12, 13, 19, 20, 25, 26, 34, 35, 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, 30, 31, or 32, classified in class 530, subclass 387.9. Applicants have been required to select one polypeptide (one amino acid sequence) as set forth in SEQ ID NO: 2, 4, 12, 13, 19, 20, 25, 26, 34, 35, 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, 30, 31, or 32.

In response to the Requirement for Restriction Election, Applicants respectfully request reconsideration of the requirement for restriction under 37 C.F.R.

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01 FC:2201 100.00 DA  
02 FC:2202 25.00 DA

**Response to Restriction Requirement**

Applicants: Darrell C. Conklin, Betty A. Haldeman, Angelika Grossmann

Serial No.: 10/748,484

Filed: December 29, 2003

For: MAMMALIAN CYTOKINE-LIKE POLYPEPTIDE-10

The Examiner has alleged that the above-listed inventions are distinct from one another because they are products which possess characteristic differences in structure and function and each has its own independent utility. Thus, the Examiner has alleged that the inventions listed above have "acquired a separate status in the art as shown by their different and recognized divergent subject matter as defined by MPEP §808.02."

Applicants strongly disagree. MPEP §808.02 states that "where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 USC §121 is never proper". Applicants assert that Groups 1 – 24 are closely related. Specifically, Groups 1-24 are directed to antibodies *that bind to a Zcyto10 (IL-20) polypeptide sequence*. Furthermore, the sequences described below are inter-related subparts of either SEQ ID NOs:2, 4, 19 or 34 as shown in Table 1 below. Thus, a search of any of SEQ ID NOs:2, 4, 19 or 34 would also search the individual subparts as defined by separate sequence identifiers.

**Table 1**

SEQ ID NO	Relation to Another Sequence
SEQ ID NO:2	IL-20
SEQ ID NO:12	Amino acids 25-176 of SEQ ID NO:2
SEQ ID NO:26	Amino acids 33-176 of SEQ ID NO:2
SEQ ID NO:14	Amino acids 35-49 of SEQ ID NO:2
SEQ ID NO:15	Amino acids 91-105 of SEQ ID NO:2
SEQ ID NO:16	Amino acids 112-126 of SEQ ID NO:2
SEQ ID NO:17	Amino acids 158-172 of SEQ ID NO:2
SEQ ID NO:4	IL-20 variant
SEQ ID NO:13	Amino acids 25-151 of SEQ ID NO:4
SEQ ID NO:19	Murine IL-20
SEQ ID NO:20	Amino acids 25-176 of SEQ ID NO:19
SEQ ID NO:25	Amino acids 33-176 of SEQ ID NO:19
SEQ ID NO:21	Amino acids 35-49 of SEQ ID NO:19
SEQ ID NO:22	Amino acids 91-105 of SEQ ID NO:19
SEQ ID NO:23	Amino acids 112-126 of SEQ ID NO:19
SEQ ID NO:24	Amino acids 158-172 of SEQ ID NO:19
SEQ ID NO:34	Murine IL-20 variant
SEQ ID NO:35	Amino acids 25-154 of SEQ ID NO:34

**Response to Restriction Requirement**  
Applicants: Darrell C. Conklin, Betty A. Haldeman, Angelika Grossmann  
Serial No.: 10/748,484  
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Accordingly, Applicants maintain that the Groups as recited by the Examiner are related and as such, any necessary search would not pose a serious burden as defined under MPEP §803.

Furthermore, the sequences as claimed are claimed in the markush format (i.e. "selected from the group consisting of..."). Thus, Applicants respectfully note that, as required under MPEP §803.02, if the members of a markush group are so closely related that a search of the entire claim can be made without serious burden, the Examiner "must examine all members of the markush group in the claim on the merits" even if directed to independent and distinct inventions.

In light of the arguments above, Applicants respectfully request withdrawal of the present restriction requirement. However, in the case that the Examiner maintains the requirement for restriction and the action is made final, and in accordance with 37 C.F.R. 1.143, Applicants provisionally elect Group 1, Claims 1-2, drawn to an antibody to a polypeptide of amino acid sequence as set forth in SEQ ID NO: 2, classified in class 530, subclass 387.9.

Early reconsideration and allowance of the pending claims under examination are respectfully requested. If the Examiner believes that a telephone interview would expedite prosecution of the above-identified patent application, please call the undersigned at (206) 442-6558.

Respectfully Submitted,



Shelby J. Walker  
Registration No. 45,192

Enclosures:

Amendment Fee Transmittal (in duplicate)  
Postcard

ZymoGenetics, Inc.  
1201 Eastlake Avenue East  
Seattle, Washington 98102